

Message Text

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FM SECSTATE WASHDC

TO AMEMBASSY MOSCOW

UNCLAS STATE 172438

E.O. 11652: N/A

TAGS:CGEN: (HENDRIX, JAMES)

SUBJECT:JUDICIAL ASSISTANCE IN EAGLE VOYAGER CASE

REF: MOSCOW 8769 AND PREVIOUS

1. AS ANTICIPATED, HENDRIX DEFENSE CLAIMED TEMPORARY INSANITY. TRIAL RESULTED IN HUNG JURY, 11 FOR CONVICTION, 1 FOR ACQUITTAL. FOLLOWING JURY'S ANNOUNCEMENT OF HOPELESS DEADLOCK, MISTRIAL WAS DECLARED AND CASE RESCHEDULED FOR EARLY SEPTEMBER.

2. ASST. U.S. ATTY. DAWSON DESIRES TESTIMONY OF MAYA PESEKHMEN FOR SECOND TRIAL. HE HOPES HER TESTIMONY WOULD HELP ESTABLISH SANITY OF HENDRIX IMMEDIATELY PRIOR TO KIEDINGER'S DEATH. ALTHOUGH DAWSON WOULD LIKE TO HAVE WITNESS APPEAR IN PERSON, AND STATES HER TESTIMONY CAN BE COMPLETED IN ONE DAY, DEPARTMENT NOT INCLINED TO PUSH MFA ON REQUEST THAT SHE BE PERMITTED TO COME TO U.S. IN LIGHT OF MFA RESPONSE REPORTED MOSCOW 8733.

3. NEVERTHELESS, IMPORTANCE OF CASE COMPELS US TO MAKE EFFORT TO SECURE HER TESTIMONY IN FORM ADMISSIBLE FOR USE IN

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U.S. COURT. FOR REASONS SET FORTH IN STATE 139062,

PARA 4, THIS MEANS ORAL DEPOSITION. EMBASSY REQUESTED TO APPROACH MFA FOR PERMISSION AND ARRANGEMENTS FOR ORAL DEPOSITION WHICH WILL MEET CRITERIA SET FORTH AT 7 FAM 840, ET SEQ. IF NECESSARY, TESTIMONY CAN BE TAKEN BEFORE PERSON AUTHORIZED TO ADMINISTER OATHS UNDER SOVIET LAW, BUT IN ANY EVENT, BOTH PROSECUTION AND DEFENSE MUST HAVE OPPORTUNITY TO EXAMINE WITNESS IN PERSON (SEE 7 FAM 842.3).

4. YOU MAY INFORM MFA THAT U.S. WOULD OFFER RECIPROCITY IN COMPARABLE SITUATION; U.S. LAW WOULD PERMIT SOVIET PROSECUTION AND DEFENSE ATTORNEYS TO EXAMINE WITNESS IN U.S. FOR SOVIET COURT CASE. KISSINGER

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